

WEDNESDAY **REGULAR MEETING**
7:00 P.M. **SEPTEMBER 5, 2012**

This Regular Meeting of Council was called to order on the above-stated date at the above-stated time after the Pledge of Allegiance and a Moment of Silence by President of Council Darryl Segina with the following Members of Council present:

RC-1 PRESENT: DALE McCALL, KEITH SOLES, FAWN WALKER-MONTGOMERY, DANIEL CARR, RICHARD DELLAPENNA, DARRYL SEGINA

ABSENT: ALFRED TEDESCO, JR.

Ms. Gladys Hunt-Mason who is the Lay Leader and Administrator for the Anglican Diocese of Pittsburgh, led the prayer.

Ms. Williams said Mr. Tedesco is on vacation so he won't be here this evening.

Mr. Segina said also present were Mayor Michael Cherepko, City Administrator Matthew Gergely, City Solicitor J. Jason Elash and members of the Administration. He said the Sergeant-at-Arms this evening is Detective Joe Osinski.

- Mr. Segina said before they start this evening, he knows emotions are running a little high this evening and he asks that there is no booing or cheering and that they respect the civility of this chamber of the City of McKeesport.
- Mr. Segina said this evening they have a distinguished guest. He said he has known her for most of his life, since his teenage years. He said she serves as the Mayor of the Borough of White Oak and received an award from the Pennsylvania State Mayors' Association. He said her roots are

in White Oak but they extend to McKeesport. He said among some of the honors she has received are from: Carnegie Library of McKeesport, McKeesport Hospital Foundation, the American Cancer Society, McKeesport High School Hall of Fame, Greater Mon Valley Woman of the Year Achievement Award and Founder of the White Oak Animal Safe Haven. He said would the Mayor please come to the podium. He said would Ms. Williams please read the Recognition Award.

- Ms. Williams read the following:

Certificate of Appreciation and Recognition

Whereas, Ina Jean Marton has been involved in politics since she began working the Election Polls at age 16 and went on to serve as a Republican Committee member and Judge of Elections, and

Whereas, Ina Jean Marton was elected a White Oak Councilwoman in 1994 and served for 11 years and was then elected Mayor and has served in that position for eight years, and

Whereas, Ina Jean Marton founded the White Oak Animal Safe Haven, which is a No-Kill Shelter, which has adopted out more than 8,000 dogs and cats since it opened, and

Whereas, Ina Jean Marton was recently honored as Mayor of the Year by the Pennsylvania State Mayors' Association, and

Whereas, Ina Jean Marton has rendered service not only to the Borough of White Oak but to all of the surrounding communities and has earned for her the deep respect and admiration of our citizens.

Now, therefore, be it resolved by the City of McKeesport in Council assembled and it is hereby resolved by authority of the same, that the Mayor and

City Council hereby commend Ina Jean Marton for her dedicated service to the people of our community and wish her success in her future endeavors.

- Mayor Cherepko said he would like to take a minute on behalf of the City to say it is really an honor to have a Mayor represent a community that is right there neighboring with them. He said she has been so instrumental in everything she does. He said the exhaustive efforts that she puts forth in each and everything she does speaks for her. He said they talked about working together for a better McKeesport, when they came into office, and working together for a better region in general. He said that is what they have been doing and he knows that Ina Jean and he communicate often and they are working together for this entire region. He said he just wants to personally congratulate her for this honor and that she deserves it.
- Ms. Marton said she thinks they can hear her and she doesn't need a microphone. She said on behalf of Darryl, President of Council, and Mayor Cherepko, Matt Gergely, and all of them here in Council, she knows quite a few people here, she is very grateful for all of this. She said thank you so much for the Recognition and she will do everything she can to help White Oak and to help McKeesport. She said she loves working with Mike and Council and she will do whatever she can. She said thank you so much.
- After the roll call, Mr. Segina said this is not a pay off. He said for those of you here for the first time, the person who is called last pays \$5.00 into their flower fund.

APPROVAL OF MINUTES:

MOTION: **Ms. Walker-Montgomery moved, seconded by Mr. Dellapenna, "To approve the minutes for**

**the Regular Meeting of Council on July 11,
2012.”**

RC-2 YEAS: McCALL, SOLES, WALKER-MONTGOMERY,
 CARR, DELLAPENNA, SEGINA..... 6

 NAYS: NONE..... 0

COMMUNICATIONS:

- Received notice from Donna Mazza of the Pennsylvania Resources Council that they will host the second Allegheny County Household Chemical Collection of 2012 on Saturday, September 15, from 9:00 a.m. to 1:00 p.m. at the South Park Wave Pool Parking lot. There is a fee of \$2.00 per gallon if anyone wants to use their services.
- Received a letter from Cliff Asher, Vice President of Operations, Multifamily Management Services, RE: Security Services Agreement Cancellation.
- Received an invitation from the McKeesport K-9 Unit to attend their golf outing on Friday, September 28, 2012, at Westwood Golf Club in West Mifflin.
- Received a letter from Jeffrey M. Karr, Assistant District Executive, Maintenance Division, Pennsylvania Department of Transportation, RE: Municipal Snow Agreement. The City's five-year agreement is still valid.
- Received a copy of a letter sent by Walter Baczkowski to Stephen Bucklew, Executive Director of McKeesport Housing Authority, RE: Conflict of Interest Waiver, Council Members.
 - Mr. Segina said what is this about.
 - Ms. Williams said it is about Council members that have properties that they are allowed to have. She said it is a waiver.

- Mr. Segina said he doesn't understand. He said could Mr. Elash explain that for him.
- Mr. Elash said he has not seen it so he will give it a quick perusal here. He said this is a letter to HUD requesting a waiver and HUD's concurrence that there is no conflict of interest for any Council people to participate in the Section 8 Program.
- Mr. Segina said thank you.
- Received a letter from Rainbow Kitchen Winter Coat Drive. They are asking for anyone who has any winter clothing to bring it to the Rainbow Kitchen.
- Received an invitation to march in the McKeesport Veterans' Day Services and parade on Saturday, November 10, 2012. She said anyone who is going should let her know so she can send in their notice.
- Received the monthly report from Bryan J. Washowich, Chief of Police.
- Received the monthly report from McKeesport Fire Department, Kevin Lust, Chief.

MAYOR'S REPORT:

- Mayor Cherepko said first he would like to take this opportunity to thank each and every one of them for coming out this evening. He said he thinks they have an exceptionally large crowd here tonight because of an issue that has been going on. He said he thinks what they have here is that every so often there tends to be an issue that comes up and divides the community. He said the thing that he wants to assure them on the City's end is that they are looking to help resolve this. He said he personally will extend an invitation ... which he thinks is great for everyone

here. He said this is democracy in action. He said the President spoke earlier and mentioned about being respectful and voicing their concerns and opinions and he thinks they will see that in action this evening. He said he thinks it will be a learning experience for all of them. He said he does want them to note that after they get through this evening, he is hoping and will extend an invitation to take a few representatives from both sides and sit down and try to come up with some sort of an amicable solution if possible. He said he is extending that out to them and hopefully that is something they can do. He said in the meantime, the City will ... because there were some concerns that came up ... and he wants it to be very clear that if they come to a point where anything ... where the law or ordinances are violated, they will enforce them. He said there is no question about that. He said he wanted to make that clear. He said there were some people worried ... whether they were City employees, City Police or City Firefighters ... the one thing that they have done in this Administration from day one is to be fair and they will continue that regardless of the outcome. He said he does want to let them know that he hopes they can sit down when this is all said and done and mediate this process and come to some amicable solution.

- Mayor Cherepko said the only other thing that he wanted to talk about briefly ... and they talked about it with Ina Jean and her award that they are working together. He said they extended this invitation when they took office in January and the invitation is still extended. He said all too often, for whatever reason, whether political or personal, sometimes they can lose focus. He said as he was always told, they need to keep their eyes on the prize. He said he thinks they are all here, and someone mentioned yesterday in the crowd, that they were here and were elected to represent the City of McKeesport, to protect the City of McKeesport, not to embarrass the City of McKeesport, not to continue to shine negativity on the City of McKeesport, but to look out

after it and protect it. He said negativity does not do them any good. He said he can assure them when they reach out to their resources, whether at the county, state or federal level for money or whether they reach out to bring business into town, one thing he can assure them, those people don't want to see dissention. He said they want to see at the very least, individuals that are working for the best interest of the City. He said he has said this numerous times ... they can have different paths to get there and he has no problem with that as long as they all have the same goal, moving the City forward. He said he has always said he has no problem running with someone else's ideas. He said they don't have to be his own ideas. He said he is wearing a button this evening and he is not sure who has had a chance to see it, but it was not his idea. He said it was the idea of Jason Togyer from Tube City Almanac. He said the button reads, "Pride in McKeesport? Yes and it starts with me." He said he thinks as representatives, Council members and residents of this City, they should have pride. He said they have their ups and downs, there is no question. He said there are problems in this City and problems everywhere. He said they all have some similar problems and some different problems. He said at the end of the day they should all want to make McKeesport a better place to live. He said he vowed when he took office that was what he was going to do. He said on the nights where they do get some sleep, he sleeps knowing that regardless of the outcome or the decision, he can truly say that he made them because he believed they were in the best interest of the City. He said that is the only question that others can ask themselves. He said he has some buttons with him today and is ordering more. He said he is going to pass them around to Council so they can take them and if they want to wear them then they can. He said he thinks they need to have pride to be here and be proud to be a representative of City government. He said he thinks they have all contributed to this City in more ways than one or they would not be sitting on this City Council. He said regardless of what they did before that, it

shows something whether in their careers or their child or something, they earned a seat on Council and should be extremely proud of it. He said what he is asking is that they keep this in mind as they go through a Council Meeting and as they move forward. He said putting things out there that are negative on the City is detrimental to the City and hurts the City. He said he is hoping they can focus on the positive. He said he has an open door policy, not just for Council, but for the residents of the City. He said he thinks anyone who has the opportunity to speak with him, whether it was a call to his office or to see him personally, ... if he is in the office and someone walks in, they don't need an appointment. He said if he has a minute or two and that is all it takes, a person can talk to him. He said the same thing goes with phone calls. He said they are moving forward. He said he is excited and would never have personally taken on this endeavor unless he believed in the City. He said he has a passion for this City and that is what drives him as it does most of them in this room. He said he is asking that they keep this in mind as they go forward and to just be proud. He said he knows he is. He said that concludes his report.

COUNCIL REPORTS:

- Ms. Walker-Montgomery said she wanted to make everyone aware, everyone in the audience as well as her colleagues on Council, that her church, Rainbow Temple, and the McKeesport NAACP is having a community cleanup day on Bailey and Evans. She said they were going to do it on October 6 but have to change the date because of the AIDS Walk. She said she will let them know what the new date will be. She said she has been talking to Mike a lot about this and how the City can help out. She said she will give them flyers when she receives them. She said she also wants to briefly address the issue that she is sure will be

addressed when the citizens come and speak about what is going on with dirt bikes. She said first she wants to thank Mr. Young and his wife for opening up their hearts and having the vision in mind for the children. She said she loves the fact that everyone is here and that the democratic process is playing out. She said the first thing that came to her mind when she walked in the door was why don't they get this kind of crowd when they have kids dying. She said there are so many African American children ... she gets choked up about it ... that have died over the years in the City. She said they don't get this kind of crowd ... and these are children and they are dying. She said when she sees somebody who is reaching out and trying to do something positive just to give the kids something to do, she doesn't have a problem with that. She said if it is getting these kids off the streets and in a positive activity, she is all for it. She said that is the first thing when she walked in the door and saw all of these people, she said wow if they could get this many people when these African American children are dying in numbers and in the way they are dying. She said she doesn't know if they heard about what is going on in Chicago, but in one night 19 African American men were killed ... in one night. She said when there are numbers like that, ... she said it was great when she walked in, and she is not saying there is anything wrong with it ,but if they could get that across the board, so they could have someone who is trying to do something positive and to give kids something to do. She said she takes her hat off to them. She said that is all she has to say.

- Mr. Dellapenna had nothing to report.
- Mr. Soles had nothing to report.
- Mr. Carr had nothing to report.
- Mr. McCall had nothing to report.

- Mr. Segina said he has nothing to report and they will go to the Citizens in the Audience now. He said they have speakers signed up to speak tonight. He said normally ... when he first took office as President of Council, he allowed anybody to participate and speak as long as they were not redundant. He said there was no time limit until he felt that they were coming into redundancy. He said tonight they have six speakers and he can only allow three minutes for each one. He said please don't repeat what someone else said. He said just bypass their turn if they are going to say the same thing. He said as he said before, no cheers and no boos. He said they should hear this out and get this over with to see where they are going to go from here. He said the Mayor has welcomed all of them to meet with him. He said he will say something after they speak. He said they will now proceed with the Citizens. He said he has his egg timer on and they each have three minutes.

CITIZENS IN THE AUDIENCE:

- **DANIEL BEISLER, ATTORNEY FOR BILL AND NOREEN DIRLING, 206 HALSEY DRIVE, McKEESPORT, PA.** Mr. Beisler said he is the attorney for Mr. and Mrs. William Dirling. He said Mr. and Mrs. Dirling live on Halsey Drive adjacent to the property that Mr. Young purchased recently and has been clearing out for the ATVs for the children. He said Mr. and Mrs. Dirling called him over the weekend when they indicated to him that they were having some problems because Mrs. Dirling has health problems, asthma to be specific, and motorbikes kick up dirt and he thought maybe they had a civil matter here that needs to be looked at. He said with that in mind, he started taking a look at some of the law here and he knows that the City and the Solicitor will take a closer look at the law. He said if in fact everything is in compliance legally, then they will have to take a look at the neighbor-to-neighbor dispute here and whether this is a

civil matter. He said he brings to their attention several issues that need to be addressed and among them would be whether or not the ATVs are in fact a nuisance in that they create a great deal of noise going around that area; whether or not there are safety issues involved here. He said under the motor vehicle law, the kids that are under 16 have to have safety certificates in order to operate an ATV. He said he has a copy of that law and will give it to Mr. Elash at the end of his three minutes. He said whether or not the ATVs can come across a public street onto the property is also another issue that the City needs to be concerned with as far as the police monitoring this kind of thing. He said in the audience there are a lot of people that want these kids to have something to do and there is nothing wrong with that just as the Councilwoman indicated. He said it is a great idea for the kids but if it is affecting someone's right to enjoy their own private property then there is a concern here. He said if it is in violation of the zoning ordinances or the statutes for motor vehicle law, then that also needs to be looked at by the City. He said he appreciates the Mayor's efforts there as far as maybe coming to some sort of a way of working this all out, if in fact everything is legally in compliance. He said his clients are certainly willing to take a look at the possibility of maybe a buffer to prevent the dust from coming up onto their property so they don't have to go into litigation. He said they know how lawyers love litigation. He said this is something they would appreciate Council taking the time to go up there and look at it on their own and looking at whether they would want this butted up against their house and ATVs going up and down. He said maybe there could be restricted hours which is another possibility of resolving it. He said he would just like to hand a copy of the Pennsylvania Zoning Law to Mr. Elash. He said maybe he already has this information but it may be a guide as he starts to take a look at whether or not things are in compliance as well as a copy of the Motor Vehicle Code. He said he is sure there are some other people here to talk both for and against this issue. He said he appreciates their time.

He said he is usually the one sitting there listening and he appreciates their efforts as well.

- **JAMES YOUNG, 202 ARNOLD DRIVE, McKEESPORT, PA.**

Mr. Young said wow and hello. Mr. Young said first of all thank you and congratulations Mayor Marton. He said he wanted to take this time to explain what they are doing up here as well as the residents that are packing this house. He said he appreciates everyone coming out for this event. He said two weeks ago, they purchased a piece of property, the old dump, from Gail and Chuck Casturo. He said he told them what he wanted to do. He said initially they had a ball field built down there by the City. He said a Councilman sat where they sit and directed Public Works to go up there and build a ball field for the kids in Haler Heights. He said surrounding Haler Heights was a group of motorbike trails that the residents up there referred to as the bumps. He said he doesn't know who all is here right now that participated in riding in those bumps but he guarantees them there are certain people that live in the City now that remember those days. He said they always had fond memories of growing up where they did. He said for years this property fell by the wayside. He said as progress moved in, tires were dumped and the City as he understands it used the property as a dumpsite. He said who would have thought that they would ever want to buy a dump. He said they hear about people buying swampland in Florida, they were going to buy a dump in McKeesport. He said he did it with one goal in mind, to give his child and his buddies a place to go and shoot paint balls at each other, ride trail bikes, and shoot air soft. He said all of the sudden, they had guys from the Fire Department wanting to battle the guys from the Police Department in paintball. He said imagine five on five, old men running around with guns shooting plastic balls at each other. He said he has never done that, he has never played the game so he can't comment what that would be like, but he sees the welts that the kids come home with and he shakes his head. He said

that is what kids like to do in their outdoor activities. He said the trail bike issue for him started a long time ago when they first moved up there. He said they talked to Mr. Fawcett who owns Fawcett Meadow, which is adjacent to Marshall Drive and runs parallel with Wainwright. He said for seven years they rode up there and never had an issue, not one. He said there was never a complaint to City Hall or a call to the Police Department saying those kids are riding dirt bikes and ATVs up there. He said Fawcett's boys had ATVs also. He said when this young man, his son, was five, he had his first trail bike so that tells you how long ago this was. He said it has been a long time they have been riding up there. He said when this opportunity presented itself, they thought it was perfect because they could keep track of their kids. He said his next door neighbor who is here today and also rides ... what better place for them to go right across the street, pushing their bikes. He said they push their bikes across the street, not riding them.

- Mr. Segina said Mr. Young you are at the three minute mark.
- Mr. Young said okay he is approaching that three minutes, he appreciates that.
- Mr. Segina said he is not approaching it, he is at the three minute mark. He said please, he will give him another sentence and then he will shut him off.
- Mr. Young asked for permission to yield to everyone who is speaking for this to give him their time.
- Mr. Segina said he is not accepting that.
- Mr. Young said you are not accepting that. He said okay.
- Mr. Segina said no, they have to be signed in.

- Mr. Young said they are signed in, there are three signed in for this.
- Mr. Segina said they will be acknowledged and called to the forefront.
- Mr. Young said yes sir. He said what they tried to do was revitalize an area that was already used for dirt bikes and ATVs. He said actually they were not ATVs because there were no ATVs back then. He said there was a restrictive covenant directed at building codes for up in that area. He said when they built their house they had to have so much brick percentage on their house.
- Mr. Segina said he has to cut him off.
- Mr. Young said he is getting to the point sir.
- Mr. Segina said he thinks they have his point already.
- Mr. Young said you got the point?
- Mr. Segina said Mr. Young was given three minutes to explain himself the same as Mr. Beisler was allowed.
- Mr. Young said with all due respect sir, thank you very much Council. He said he will not take any more of their time and appreciates the opportunity.
- Mr. Segina said he doesn't mean to cut him off because he is favoring one person or another. He said believe him when he says that. He said he thinks he is trying to be fair with the three minute time limits to give to each one of them.
- Mayor Cherepko said how do they get away with that.
- Mr. Segina said not for tonight. He said would Bea Longo please come up to the front.

- Mr. Carr said they should have let him have his say. He said if he could buy the other three minutes, he thinks he would be more important than the other people.
- Mayor Cherepko said they can always make an action.
- Ms. Longo said she thought it was five minutes.
- Mr. Segina said he is sorry, he said before the meeting started, he is not going to use that five minutes ... he actually did not have any limit at all before. He said because of the number of people who want to speak here.
- Mr. Elash said she can yield her time.
- Ms. Longo said she does not agree with Mr. Young.
- Mr. Segina said three minutes for each individual.
- Mayor Cherepko said they have the ability anytime they want just as long as they
- **BEA LONGO, 200 WAINWRIGHT DRIVE, McKEESPORT, PA.** Ms. Longo said she thinks other people are going to talk about the noise and someone else will talk about the air pollution. She said she just wants to clear up some misconceptions. She said number one, she wasn't born old. She said number two, she really likes children, she likes the young and especially likes their children and the boy that lives next door to them. She said they are very nice, polite children. She said she would like a city-wide ordinance prohibiting those vehicles in residential areas, not just hers but throughout the City. She said she doesn't just live in Haler Heights, she lives in McKeesport. She said she has been listening to those bikes on the Fawcett lot for years and they go on and on. She said to a person along that side of Wainwright, she has heard complaints about the noise and the disturbance and having to go inside. She said she

would also like the City to enforce its zoning ordinance. She said she wants to know if Mr. Young and his wife, applied for a zoning certificate setting forth what property they had and also setting forth how they plan to use that property with a map, with a study of the environmental impact on their community and whether they applied for a variance or non-conforming use or conditional use. She said this is in violation and is not the typical use of a residential lot. She said the lot is not abutting their property or part of it. She said it is two houses down and across the street and is a new use of this property. She said even if it was used as a ballfield and trail years ago, under the ordinance it is a non-conforming use if that use has not been applied for a 12-month consecutive period or 12 out of 18 consecutive periods. She said she has lived in her house for 20 years and it was not used as a ballfield or as a bike trail during that period of time. She said she is all for recreational area for the children, riding their bikes, playing ball ... she doesn't know about paintball either. She said she is not sure exactly what would be involved there but if he complies with the zoning ordinance, Mr. Young could lay forth how he plans to use that and there would be a study by the Planning Commission and he would come back to them and there would be a Public Hearing for all the people of McKeesport and whether or not they want that kind of ordinance in their community. She said it does affect the value of their properties. She said everything she has seen online says that noise and the use of those ATVs and motorbikes brings down the value of the property. She has already had two people tell her they were considering moving up there but will not move up there if there is a dirt bike trail behind their house.

- Mr. Segina said thank you Ms. Longo.
- Ms. Longo said thank you.

- Mr. Elash said does Mr. Segina want him to respond to her question.
- Mr. Segina said no, he is going to say something after this is over and then he is going to use Mr. Elash too.
- **DENISE COLBERT, 207 ARNOLD DRIVE, McKEESPORT, PA.** Ms. Colbert said she lives across the street from Mr. Young and adjacent to the supposed dirt bike trail. She said she also purchased three lots from the "dump" ... that was called the "dump" and she turned it into her home. She said she loves her home. She said nine years ago she stood before all of them asking for a variance due to the restrictive covenant and what she needed to do in order to build there. She said it is a great neighborhood and a great place to live. She said she does have concerns with the paint ball and of course, with the noise. She said imagine you are in your pool, it is a Saturday afternoon and you have worked all week and it's really hard. She said then 50 feet from you are ten people riding dirt bikes and 3 adults on ATVs. She said she doesn't know how long any of them could stand that on a Saturday if they wanted to relax and enjoy their property. She said she does agree that the kids in the City need something to do. She said maybe the City can help them find some place to have a trail. She said maybe there is a place down at Renzie Park that they could have a trail and Mr. Young could help set it up. She said she is asking that they be fair in thinking about this. She said they should think about the culture of the neighborhood and consider the property values. She said her dump was assessed at \$185,000. She said that is a lot of money for a dump. She said she was born and raised in McKeesport and works in the City. She said she has been working at Kane for 27 years. She said she has a vested interest in her home and her community and where she lives. She said thank you very much.

- **RYAN PALMER, 105 McARTHUR DRIVE, McKEESPORT, PA.** Mr. Palmer said he would like to comment on a couple of things. He said he just moved into the City into the neighborhood up in Haler Heights last year in December. He said he wanted to move up there because it was a quiet community where he could raise his daughter, a 9-month old little girl. He said he wanted to be somewhere safe in the City. He said he got a letter from a lady that knocked on his door presenting that someone was trying to build a recreational spot here in the neighborhood for the kids. He said they talked about it and he knows there are some arguments going on about it and that is why they are here today. He said he only wants to express what he has to say. He said with the problems that they have going on in the neighborhoods in the cities around here, he personally ... and this is again what he feels, that he would not feel safe taking his daughter to Renzie Park and letting her play. He said this gentleman's kids are old enough to go themselves and play basketball and do what they want to do. He said he is trying to purchase land that he purchased with his money, his own time, his labor and a dump site of the City of McKeesport for a recreational area. He said it is not like it is in somebody's yard. He said it is the backyards and in the valley. He said if people are worried about the noise ordinances ... he has never received anything when he moved into that neighborhood about having a noise ordinance or having to follow certain rules. He said that has to do with associations as he was told. He said this is not an association, a community, a neighborhood or a district. He said he doesn't feel right to negate everything that someone is trying to do for the children in the City. He said that is all this gentleman is trying to do ... is have somewhere safe. He said there is nowhere at all in Haler Heights. He said if anyone is from there, lives there or has been there, there is nowhere to go. He said he can walk his daughter up and down the street where people drive 100 miles an hour. He said that is all he has to do with his daughter all day long. He said he has nowhere to go with her, has nothing to do

and he just feels that the people that are in the neighborhood now are a younger generation of people. He said kids are not playing ball in their backyard anymore. He said half the kids are playing playstation inside their house. He said for someone who is trying to get their children and other children in the community outside to do something a little more recreational than sit inside and burn their brains all day. He said he is all for it and has nothing against it. He said he wished more people would feel the same way he does.

- Mr. Segina said as he said before, Council and the Mayor just got this last night. He said if they are looking for an answer from them tonight, to say whose side they are on, there is no side to choose on this. He said as Mr. Beisler stated though, there are laws and there is a covenant to which Mr. Elash alluded to in the Daily News today. He said he is going to ask Mr. Elash to recite a little bit of that restrictive covenant. He said he doesn't know if it pertains to this particular instance or not but there is a covenant and it has been tested in Court, it was challenged and the challenger lost. He said the covenant was still in place. He said would Mr. Elash speak to this.
- Mayor Cherepko said he doesn't think they want to
- Mr. Elash said he has not reviewed the covenant itself. He said there are restrictive covenants in the deeds.
- Mr. Segina said he made some remarks that is all.
- Mr. Elash said his remarks were that restrictive covenants are not generally enforced by a municipality and that is something that is enforced civilly between the homeowners themselves.
- Mr. Segina said that is correct and that is the point he wanted him to make.

- Mr. Elash said that is not something that the City would get involved in.
- Mr. Segina said did they hear that. He said the covenant for Haler Heights is restrictive and this would require a civil suit, nothing demanding from the City itself. He said it is a civil suit. He said this covenant was crafted by Blanche Wivagg back in ... he doesn't know the date here but it was a long time ago ... 1951. He said if it was up to him, they would have had this all over the City. He said he is not saying he is favoring whatever is going on up there either. He said the covenant still stands in place today. He said whether it regards this or not, he has no idea. He said they also have a petition here that was presented to him before the meeting, which is against dirt bikes and ATVs and wants them to cease and desist immediately. He said he thinks there are probably about 40 names on here. He said he doesn't know. He said there is opposition but he is not counting anybody either way. He said however, Mayor Cherepko did offer to meet with these people and he thinks it is an excellent idea. He said he thinks they should gather all of their laws that they have including the covenant, the state vehicle code, the zoning ordinance, any state laws and then make sure that there is definitely liability insurance to protect the property owners and the kids who are riding these bikes. He said that is an essential item. He said if he owned property up there and ATVs were on it, he is responsible if they get hurt. He said he doesn't think anyone would want to face that. He said he is trying to stay as neutral as he can, however, there are some negatives to this also as well as positives. He said he wants to see kids playing too to keep them out of trouble, there is no doubt. He said the gentleman said something about Renziehausen Park and to him it is about as safe as you can get. He said he knows they had a murder up there but those people were all from Duquesne. He said they had those problems before with those people and they are requiring security from now on hoping that won't happen again. He said he is up there

every day with the Senior Center and has not seen any violence or fights up there or anything that would harm anyone going down there. He said as far as calling it a dump site, the City didn't ... they took advantage of the situation. He said Mr. Casturo asked the City to fill in up there. He said that was clean fill that went in up there. He said they had Senate Engineering do a geological survey and they dumped only until they were told to stop and that was all the further they could go with it. He said if they are talking about rubbish or whatever dumped in there, that was before Senate Engineering did their survey. He said also he believes there is a main sewer line out there running down the middle. He said they cleaned that out one time when he was Public Works Director and it was very difficult to do. He said there was a cracked pipe and they had to send men down there and do the work by hand because no machinery could get there. He said if that is the same area they are talking about, he will tell them that if they are going to allow this that they should be mindful of that sewer line up there also. He said they had tires thrown into it as a joke and they had to seal them. He said that is what he wants to say regarding this subject. He said if there are any other Councilmen who would like to say something please speak now. He said otherwise he made his request to Mayor Cherepko and he has opened his doors to them. He said please try to be tolerant of each other until they get this solved so everyone is happy. He said they have to live in that area and they have to enjoy it. He said there should be no break of peace and should be serenity and the right for everyone to live in that peace. He said with that, hopefully this can be resolved. He said their last speaker is Ray Malinchak.

- Mr. Malinchak said he withdraws his request in order to move the meeting on. He said there is an NFL game tonight too.
- Mr. Segina said that is very kind of Mr. Malinchak.

TABLED BILLS:

BILL #46: AN ORDINANCE OF THE CITY OF McKEESPORT, ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING PROCEDURE 2, SECTION III-C OF ORDINANCE #79-4 TO ADD SUBPARAGRAPH 3, PROHIBITING ANY PERSON HOLDING A COMPENSATED, APPOINTIVE OR ELECTED POSITION FROM ALSO HOLDING A POSITION ON ANY BOARD, AUTHORITY OR COMMISSION WHERE SAID PERSON WOULD HAVE THE POWER TO SET OR PARTICIPATE IN SETTING THE POLICIES AND/OR CONDUCTING THE BUSINESS OF THE BOARD, AUTHORITY OR COMMISSION; PROVIDING FOR VARIOUS EXCEPTIONS; AND PROVIDING FOR REMOVAL AND/OR TERMINATION OF SAID PERSONS FOR VIOLATION OF THIS PROVISION.

MOTION: Mr. Carr moved, seconded by Mr. Soles, "To remove Bill #46 from the Table."

RC-3	YEAS:	McCALL, SOLES, WALKER-MONTGOMERY, CARR, DELLAPENNA, SEGINA.....	6
	NAYS:	NONE.....	0

Mayor Cherepko said now you have to vote on it.

MOTION: Ms. Walker-Montgomery moved, seconded by Mr. Dellapenna, "To adopt Bill #46."

- Mayor Cherepko said does everyone understand.
- Mr. Segina said he doesn't understand.
- Mayor Cherepko said they took it off the table so that if they want to discuss it further like what was said last night and now they are going to vote it down if that is what they want to do. He said that was the consensus yesterday.

- Mr. Elash said the idea is to put it back on at a later date.
- Mr. McCall said yes.
- Mr. Elash said then he is voting in favor of the Bill.
- Mr. McCall said no he is voting to take it off of the table.
- Mr. Elash said that was already voted on.
- Mr. McCall said he would like to change his vote to "No."

RC-4 YEAS: NONE..... 0

NAYS: McCALL, SOLES, WALKER-MONTGOMERY,
CARR, DELLAPENNA, SEGINA..... 6

NEW BUSINESS:

ORDINANCE #12-15 – BILL #59: AN ORDINANCE OF THE CITY OF McKEESPORT, ALLEGHENY COUNTY, PENNSYLVANIA, AUTHORIZING THE PROPER CITY OFFICERS TO EXECUTE THE LEASE AGREEMENTS ATTACHED HERETO FOR OFFICE SPACE IN CITY HALL LOCATED AT 500 FIFTH AVENUE.

MOTION: Ms. Walker-Montgomery moved, seconded by Mr. Dellapenna, "To adopt Bill #59."

RC-5 YEAS: McCALL, SOLES, WALKER-MONTGOMERY,
CARR, DELLAPENNA 5

NAYS: SEGINA 1

RESOLUTION #2012-41 – BILL #60: A RESOLUTION OF THE CITY OF McKEESPORT, ALLEGHENY COUNTY, PENNSYLVANIA, DESIGNATING SEPTEMBER 22-OCTOBER 7, 2012 AS RADICAL DAYS IN THE CITY OF McKEESPORT.

MOTION: **Mr. Carr moved, seconded by Mr. Soles, "To adopt Bill #59."**

COMMENTS:

- Mr. Segina said the only comment he has on this is that Radical Days ... Renziehausen Park is a regional park and the City receives ARAD funds every year to operate Renzie Park. He said during the month of September all of the facilities at Renziehausen Park are free. He said if someone has a picnic planned or whatever they want to do that would cost money, it will be free during that time. He said they can come into City Hall and they can have the Pavilion or whatever they want to have their affair.

RC-6 YEAS: McCALL, SOLES, WALKER-MONTGOMERY,
 CARR, DELLAPENNA, SEGINA..... 6

 NAYS: NONE..... 0

AMEND THE AGENDA:

Mr. Segina said he needs a motion to amend the Agenda to include three Ordinances.

MOTION: **Mr. Carr moved, seconded by Mr. McCall, "To amend the Agenda to include Bills #61, #62 and #63."**

RC-7 YEAS: McCALL, SOLES, WALKER-MONTGOMERY,
 CARR, DELLAPENNA, SEGINA..... 6

 NAYS: NONE..... 0

BILL #61: AN ORDINANCE OF THE CITY OF McKEESPORT, ALLEGHENY COUNTY, PENNSYLVANIA, VACATING A PORTION OF ST. MARY ALLEY, A 19' PUBLIC RIGHT OF WAY TOGETHER WITH A PORTION OF SEABURY AVENUE, A

40' PUBLIC RIGHT OF WAY AS ORIGINALLY RECORDED IN THE BEULAH PARK PLAN OF LOTS AS RECORDED IN THE PLAN BOOK VOLUME 8 PAGES 288, AS LOCATED IN THE NINTH WARD, CITY OF McKEESPORT, COUNTY OF ALLEGHENY, COMMONWEALTH OF PENNSYLVANIA, CONTAINING AN AREA OF 5534.43 SQUARE FEET.

MOTION: **Mr. Soles moved, seconded by Mr. Dellapenna, "To adopt Bill #61."**

COMMENTS:

- Mr. Segina said these three Bills were brought to them at the last minute. He said there was a brief description of one of the Bills and he is not aware of this particular one because it was just laid on their desk. He said if anyone could comment to explain this Bill to them, please do.
- Mr. Elash said these were provided with the Memorandum outlining the paper alleys that exist in the lots adjacent to the Public Works Garage. He said those lots are being changed over to the business down there to expand that facility where they are renovating vehicles down there. He said part of that
- Mr. Segina said this says Ninth Ward. He said did he hear Ninth Ward on this?
- Mayor Cherepko said it should be Third but it says Ninth. He said where did this come from.
- Mr. Segina said he has one on Seabury Avenue and that is not the Ninth Ward.
- Mr. Elash said these are not the same ones. He said where is Seabury Avenue.
- Mr. Segina said here is one for the Eighth Ward and the description.

- Mayor Cherepko said if he may, he did not even see that until tonight also He said somehow that got in there and it should be the one ... they are talking about the three lots.
- Mr. McCall said in the Ninth Ward.
- Mayor Cherepko said no in the Third Ward. He said he doesn't even know where that even came from. He said he has never seen that thing and has no idea what it is.
- Mr. Elash said these are the descriptions for KLH.
- Mr. Segina said can they delay these until they get the correct information for them.
- Mr. Elash said he thinks what they need is the other two. He said the ones with Thirteenth and Market are the ones they need to adopt. He said this one may be something that was given to Ms. Williams for maybe next month's Council meeting. He said he has not been briefed on vacating any parcels in Grandview.
- Mayor Cherepko said are they only vacating two alleys or three ... two paper roads or three.
- Mr. Elash said he thinks there are only two.
- Mayor Cherepko said he thought there were only two.
- Mr. Elash said this is something completely different and this should probably be for next month. He said they should vote this one down because it has already had a motion and been seconded. He said the Agenda has been amended and he would vote that one down. He said that one is in Grandview.
- Mr. McCall said he will tell them something, the other ones are in Grandview too.
- Mr. Segina said the last time they had this kind of a mixup, he said he does not like to see these things thrown at them at the last minute. He said he doesn't know why there is a rush

and they can't be added to the regular Agenda as opposed to coming at them now and then they are trying to figure it out that particular night.

- Mayor Cherepko said they put a description in Friday because they were not informed that they had to vacate the paper alleys like they have all throughout the City on these parcels of property that they agreed to a few months ago in order to sell the parcels. He said there are two streets, paper alleys that the City technically owns and are paper alleys that they have to vacate. He said that is why they gave them the heads up Friday. He said where these other two things came from, he has no idea.
- Mr. Segina said the thing about this is that is there a Bill on the one they are looking at.
- Mayor Cherepko said if you look at the third one it is right here. He said he just grabbed the packet they have because he did not have it before. He said it is all the same Bill he believes.
- Mr. Segina said it is Bill #62.
- Mayor Cherepko said Bill #62 is the one they want to pass.
- Mr. Segina said what was read, Bill #61.
- Mr. Elash said they want to vote down Bill #61 and Bill #63 because they have not even been told why these are being vacated. He said by looking at them, because these things came from Garvin Engineering and KLH Engineering. He said these look like these are vacations in association with the Sewer Authority project. He said that is probably what these are for and he thinks they sent all of the descriptions to Ms. Williams and she drafted ordinances for all three of them. He said the other one they were seeking to rush onto the Agenda for the relocation of the business is Bill #62.
- Mr. Segina said they just amended the Agenda for three Bills.

- Mr. Elash said they have to vote the other two down for tonight because he has no information as to why they are even doing that. He said he would not recommend that they pass them.
- Mr. Segina said that is why he recommends from now on that they get them in due time so they have time to print these up, present them to City Council so they can be discussed on Tuesday and be on the Agenda. He said that is his request. He said he hates to be fast and firm with this but he will turn down any more Bills that come in like this. He said they are not really sure about this either.
- Mr. Elash said they are sure about this one. He said this is the one for the businesses and this is the parcel where the gentleman is expanding his business. He said this is what the memo was about that they had in their agenda on Friday. He said the error was these two were added to the Agenda with this and they were to be held for next month is what he is assuming.
- Mr. Segina said is there an emergency on this so they have to pass this tonight.
- Mayor Cherepko said Bill #62 was close and they have a certain window. He said everything is in escrow and the sale of the property has been made. He said he is not sure what the window is but it is close. He said that is why they rushed it.
- Mr. Elash said they rushed it to try and get it done because if the escrow expires, the gentleman can get out of his agreement with the Redevelopment Authority to buy all of these parcels and put them on the tax rolls. He said the holdup was getting the description of these two vacations. He said once the gentleman realized he needed them vacated, they had to get their engineers to draft a description which came into the office on Friday. He said that is why it took so long to get it on the agenda.

- Mr. Segina said here is the problem he has with this. He said if this gentleman is bringing a business into this town, he thinks they should be touting him. He said there should be someone coming up here and saying what he is going to be putting there so they all understand
- Mayor Cherepko said it is a business that has been there for years. He said they already exist. He said all he is doing is expanding on his property and is buying those parcels of land which in essence were worth very little. He said they are taking these parcels and putting them back on the tax rolls which this Council already passed to do. He said the only thing they did was that the first time when they passed it, they as well as everyone else did not realize that there were paper alleys on those parcels. He said they actually already voted on this and passed all this. He said the only difference now is they have to give over the ownership and vacate the paper alleys.
- Mr. Segina said that particular Bill they passed then was also rushed to them and was not on the Agenda and they added it to the Agenda too. He said he is only giving him fair warning. He said he is not trying to hold up anything.
- Mayor Cherepko said he understands but he wants Mr. Segina to understand they literally got these specs in yesterday and that is why Patty got them all in and done. He said what Mr. Segina has to understand is that if someone comes up to them and says they want to purchase something and it is time sensitive, they can either say they will have to wait because they can't get it to Council or they can take care of it. He said then they might lose out on it. He said that is all it was. He said once again it was purely in the best interest of the City and he thinks they understand that. He said he apologizes for getting it there late but he wants them to know firsthand that there was absolutely nothing they could do. He said Patty can tell them personally that they waited to try to get these specs done and it is not an easy process. He said

they were told at the last second that there were paper alleys. He said they did not know or they would not have presented it to them the first time. He said it is one of those situations that until you go down and try to record the deeds and look at the survey of the land and find out something like there are two alleys.... He said he doesn't even think Patty even knew the names of them.

- Mr. Segina said he is not sitting here trying to blame anyone however if he does have those kinds of situations, he thinks they should tell these contractors, surveyors or engineers, or the entity that is presenting these, what kind of a deadline they have too.
- Mayor Cherepko said right.
- Mr. Segina said they want a clean cut deal so if there is something they stick their chest out for, they want to do that also.
- Mayor Cherepko said he agrees.
- Mr. Segina said in this particular case they will vote no on this. He said there is already a motion on this and a second. He said this is the only time he tells them how to vote.

RC-8 YEAS: NONE..... 0

NAYS: McCALL, SOLES, WALKER-MONTGOMERY,
CARR, DELLAPENNA, SEGINA..... 6

- Mr. Segina said just for him to get this straight, they are going to Bill #62 and that is the one that is a necessity.
- Mayor Cherepko said Bill #61 and #63, he has no idea where they came from.
- Mr. Segina said they will vote on Bill #63 later on and will have a clean Agenda.

ORDINANCE #12-16 – BILL #62: AN ORDINANCE OF THE CITY OF McKEESPORT, ALLEGHENY COUNTY, PENNSYLVANIA, VACATING A 12’ UNNAMED PUBLIC RIGHT OF WAY LOCATED IN THE THIRD WARD OF THE CITY OF McKEESPORT, COUNTY OF ALLEGHENY, COMMONWEALTH OF PENNSYLVANIA.

MOTION: **Mr. McCall moved, seconded by Mr. Soles, “To adopt Bill #62.”**

RC-9 YEAS: McCALL, SOLES, WALKER-MONTGOMERY,
 CARR, DELLAPENNA, SEGINA..... 6

 NAYS: NONE..... 0

BILL #63: AN ORDINANCE OF THE CITY OF McKEESPORT, ALLEGHENY COUNTY, PENNSYLVANIA, VACATING AN UNNAMED 20’ PUBLIC RIGHT OF WAY SITUATE TO THE SOUTH OF LINCOLN WAY, AS LOCATED IN THE EIGHTH WARD, CITY OF McKEESPORT, COUNTY OF ALLEGHENY, COMMONWEALTH OF PENNSYLVANIA.

MOTION: **Mr. McCall moved, seconded by Mr. Soles, “To adopt Bill #63.”**

RC-10 YEAS: NONE..... 0

 NAYS: McCALL, SOLES, WALKER-MONTGOMERY,
 CARR, DELLAPENNA, SEGINA..... 6

CONTROLLER’S REPORT:

- Mr. Malinchak said he would just like to make a few comments on the Monthly Financial Statement. He said they are actually at the two-thirds part of the year and he would like to bring to their attention that at this point in time, the City’s expenses are exceeding the revenue in the amount of

\$659,000.00. He said one can look at that as a deficit or that they maybe getting revenue in the last one-third of the year.

- Mr. Segina said would Mr. Malinchak please speak up.
- Mr. Malinchak said he will repeat it. He said the expenses are exceeding the revenues at this point in time which is the two-thirds mark of the year in the amount of \$659,227.00. He said in addition to that, to the best of his knowledge, they still have an outstanding balance of approximately \$1.2 million on the T/A Note plus about \$35,000 or \$37,000 for the interest on that. He said that totals to about \$1.3 million. He said when they add those two together, they are sitting at a \$1.9 million projected deficit. He said also he would like to bring to the attention of Council and to the City Administrator that all the leases that were just passed, he would assume that Mr. Gergely has written approval from the City Attorney for each of these leases he reviewed. He said he would like to read something to them from the Home Rule Charter. He said the "Powers and Duties of the City Attorney: He [the City Attorney] shall either directly or through subordinates prepare or approve all contracts, bonds and other instruments in writing in which the City has a concern." He said they should comply with that.
- Mr. Elash said he prepared them and they are in writing.
- Mr. Malinchak said he has to approve
- Mr. Elash said read it closely and it says approve or prepare.
- Mr. Malinchak said he would figure that he would use
- Mr. Elash said Mr. Malinchak just said it on the record, "He shall either directly or through subordinates, prepare or approve" He said he prepared the leases.
- Mr. Malinchak said where is his approval.

- Mr. Elash said he doesn't have to, he prepared them. He said obviously he will approve them.
- Mr. Malinchak said he will accept that. He said that is exactly what he would expect.
- Mayor Cherepko said it is fourth grade grammar, it says "or." He said he would like to comment on Mr. Malinchak's number, he couldn't agree with him more. He said hopefully people believe him now. He said that is the situation he was telling them that they were in at the beginning of the year.
- Mr. Malinchak said also the Mayor said in June that he would come up with a financial report and a recovery plan.
- Mayor Cherepko said that is true. He said the plan is already being done and the financial analysis of the City is very clear and it is under Mr. Malinchak's area of the Charter and he did not want to do the Controller's job. He said when they do a presentation
- Mr. Malinchak said he is most welcome to do his job.
- Mayor Cherepko said when they do a presentation ... when they do a budget proposal to him, at that point they will give him the reality of the situation. He said he was not going to do it twice.
- Mr. Malinchak said he recommends that Council approve bills in the amount of \$118,268.28. He said that number is greater than the number shown on this list. He said he looked on the list and there is a \$5,300.00 bill for Ray's Trees that is not listed so he added it on and that is how he got to the \$118,268.28.

MOTION: **Mr. Walker-Montgomery moved, seconded by Mr. Soles, "To approve payment of the bills in the amount of \$118,268.28."**

RC-11 YEAS: McCALL, SOLES, WALKER-MONTGOMERY,
CARR, DELLAPENNA, SEGina..... 6

NAYS: NONE..... 0

- Mr. Segina said before they leave he knows some of them might be disappointed by what occurred here this evening. He said after hearing some of them and hearing all these details, there are some complexities to this. He said he hopes they can all come to a happy resolution. He said some won't be happy and some will, whatever it is. He said he is glad to see Mr. Cherepko stepping in so they can all sit down. He said he is not looking for agreement, he is looking that the law of the land be fulfilled, that the covenants be fulfilled and they are covered insurance-wise.

ADJOURNMENT:

President of Council Segina adjourned the meeting at 8:10 p.m.

Respectfully submitted,

Patricia A. Williams
City Clerk and Clerk of Council

APPROVED:

Darryl Segina
President of Council

daw